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SUBJECT: SPECIAL 301 REVIEW: KEEP GOU ON WATCH LIST

REF: STATE 7944

SENSITIVE BUT UNCLASSIFIED--PLEASE PROTECT ACCORDINGLY.

¶1. (SBU) Summary: Post has seen minimal, if any, progress on legislative changes to Uzbekistan's Intellectual Property Rights (IPR) regime in 2006. The Government of Uzbekistan (GOU) continues to delay reforming the civil, criminal and administrative codes. Uzbekistan adhered to the Berne Convention in 2005, but still holds a reservation to its accession regarding Article 18. There has been little movement on adopting the new Copyright Code, which adheres to all international conventions and the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement. Post agrees with the International Intellectual Property Alliance's (IIPA) criticisms of the GOU's existing IPR regime and agrees that Uzbekistan should stay on the Special 301 watch list. However, Post does not believe that revoking General System of Preferences (GSP) privileges will lead to further progress. End summary.

LEGISLATION: "WE'RE WORKING ON IT"

¶2. (SBU) Throughout 2006, the GOU showed no progress towards World Trade Organization (WTO) accession. Accession remains a long-term goal and the government is behind schedule. In 2005, Uzbekistan finally agreed to the Berne Convention, but made a reservation to its accession regarding Article 18. This reservation continues. (Note: Article 18 protects pre-existing works from the U.S. and all other Berne countries. End note.)

¶3. (SBU) Because draft legislative codes are under consideration in Parliament, USG-funded WTO technical advisors currently are not working as closely with the GOU on amending IPR-related legislation, such as the Criminal, Administrative, and Civil Codes, as in the past.

COPYRIGHT CODE: "WE'RE WORKING ON IT"

¶4. (SBU) The GOU originally planned to pass a new Copyright Code in August 2005. In May 2005, USAID hosted a conference with international experts to advise the GOU on the draft copyright law. The experts' suggestions were included and the draft submitted to Parliament. However, the Parliament has been revising it for over one year, and remains reluctant to involve outside parties.

¶5. (SBU) As the USG and industry groups frequently point out, the existing "Law for Copyright and Related Rights" does not fully conform to the requirements of international

conventions, implementation of which is required by the WTO TRIPS Agreement. The new version of the copyright law provides for extended rights in accordance with the Berne and Rome Conventions to the producers of phonograms, foreign and Uzbek authors, performers and subjects of related rights.

CRIMINAL AND CUSTOMS CODE CHANGES: "WE'RE WORKING ON IT"

¶ 16. (SBU) Amendments to the Criminal Code affecting IPR were proposed in 2004, but the Parliament has not officially reviewed the draft law on changes to the legislation on IPR enforcement.

¶ 17. (SBU) The draft Customs Code still has not been submitted to the WTO and it appears the Uzbeks are stalling. In both 2005 and 2006, the GOU said the new edition of the Customs Code would be adopted in 2006 and 2007 respectively.

ENFORCEMENT: "WE'RE WORKING ON IT"

¶ 18. (SBU) Uzbekistan is a poor country and despite GDP growth officially reported around seven percent in 2006, poverty figures have not improved, meaning that fewer people can afford basic goods, let alone pirated goods. The GOU, in order to restrict illicit trade and increase tax collection, conducted a few raids in 2006 on retailers of optical disks (music and computer CDs and DVDs) and videotapes. The Uzbek Copyright Agency, in association with Microsoft's office in Tashkent and the United Nations Development Program, held two seminars for law enforcement agencies to discuss intellectual property rights. Despite these actions, pirated music CDs, cassettes, movies and computer software are still readily

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available, at least in the capital, for approximately \$3.20-5.60 (4,000-7,000 soum). The majority of the black market goods come from Ukraine and Russia, although an increasing number of CDs come from Kazakhstan.

RESPONSE TO IIPA and IFPI: A REPEATING RECORD OF DELAYS

¶ 19. (SBU) Post agrees with IIPA's findings of problems in Uzbekistan's legislative regime to protect intellectual property rights. A prerequisite for fixing these problems is engagement with the GOU. The U.S.-Uzbekistan bilateral relationship deteriorated significantly following the May 2005 events in Andijon. Subsequently, the GOU has stopped cooperation in many areas and is currently unwilling to fruitfully engage with Post on IPR and WTO accession issues.

¶ 10. (SBU) Uzbekistan's problem with copyright piracy is with the sale of pirated goods; not with production. Post strongly disagrees with the International Federation of the Phonographic Industry's (IFPI) estimate of losses due to music piracy of USD 30 million. This does not take into account the fact that very few Uzbeks, earning an average of USD 50/month, could or would actually purchase a legal copy of a CD. It is very possible that the U.S. music, video and computer software industry suffers limited loss from sales of pirated music, videos and computer programs in Uzbekistan, as per capita income is too low to support purchases of legal IPR products.

KEEP GOU ON WATCH LIST; MAINTAIN GSP PRIVILEGES

¶ 11. (SBU) There is no denying that the GOU has a long way to go to be in compliance with all WTO TRIPS requirements. However, the WTO advisor program has made limited but effective progress in stimulating change within the GOU IPR regime. We should allow this program more time before imposing further penalties on Uzbekistan for lack of IPR protection.

¶12. (SBU) Although we agree with IIPA that the GOU should remain on the Special 301 Watch List, Post believes that eliminating Uzbekistan's GSP privileges, as recommended by IIPA, would be counterproductive at this time. Rather than taking this step, Post believes we need to continue to engage the GOU through the WTO process.

PURNELL